

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

JEREMY JOHNSON, *et al.*,

Defendants.

Case No. 2:10-cv-02203-MMD-GWF

ORDER

Motion for Leave to File Amended
Complaint (#786)

This matter comes before the Court on Plaintiff Federal Trade Commission's ("Plaintiff") Motion for Leave to File First Amended Complaint (#786), filed on January 18, 2013. Defendant Jeremy Johnson ("Johnson") filed a timely Response (#791) on February 4, 2013. Plaintiff filed a timely Reply (#814) on February 14, 2013. The deadline to amend pleadings and add parties was January 22, 2013. *See Scheduling Order, Doc. #675* at 1:17.

This case involves Defendants' alleged violation of the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.*, the Electronic Fund Transfer Act, 15 U.S.C. § 1693o(c), and Regulation E, 12 C.F.R. § 205.10(b). Plaintiff filed the original Complaint (#1) on December 21, 2010, naming ten individual defendants and 61 corporate defendants. On February 10, 2011, the District Judge issued a Preliminary Injunction (#130) freezing the assets of the Corporate Defendants and Johnson, and appointing a receiver for the assets. On February 3, 2012, the receiver filed a Report of Receiver's Financial Reconstruction (#464) and supporting Appendices of Exhibits (#465-#468). Plaintiff claims the Report (#464)¹ indicates transfers of assets from Johnson to individuals Sharla Johnson, Kerry Johnson, and Barbara Johnson, and to corporate entities Orange Cat Investments, LLC, Zibby, LLC, Zibby Flight Services, LLC, KV Electric, Inc., and the KB Family Limited

¹Plaintiff also refers to the receiver's February 8, 2011 Report of Temporary Receiver's Activities (#127).

1 Partnership ("Proposed Relief Defendants"). Plaintiff now seeks leave to amend the Complaint to
2 add the Proposed Relief Defendants to preserve assets for the possibility of redress to the alleged
3 victims.

4 Federal Rule of Civil Procedure 15(a)(2) provides that courts should permit amendments to
5 pleadings "when justice so requires." *Hall v. City of Los Angeles*, 697 F.3d 1059, 1072 (9th Cir.
6 2012). Requests for leave to amend should be granted with "extreme liberality." *Mirmehdi v.*
7 *United States*, 689 F.3d 975, 985 (9th Cir. 2011). Amendment is generally permitted unless (1)
8 there is undue delay in seeking leave, (2) amendment will prejudice the other party, (3) leave is
9 sought in bad faith, or (4) amendment would be futile. *See Hall*, 697 F.3d at 1072; *see also DCD*
10 *Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987). Plaintiff did not unduly delay
11 seeking leave because the instant Motion was filed before the amendment deadline. Granting leave
12 to amend the Complaint will not prejudice Defendants because the discovery cutoff in this case is
13 not until April 2, 2013. *See Scheduling Order, Doc. #675* at 1:18. The Court also finds Plaintiff
14 did not file the instant Motion in bad faith. Therefore, justice requires leave for Plaintiff to file an
15 amended complaint. Accordingly,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion for Leave to file First Amended
17 Complaint (#786) is **granted**.

18 **IT IS FURTHER ORDERED** that Plaintiff shall file the proposed First Amended
19 Complaint (Doc. #786, Exh. 1) within 10 days of the date of this Order.

20 DATED this 22nd day of February, 2013.

21
22 
23 GEORGE FOLEY, JR.
24 United States Magistrate Judge
25
26
27
28